UNITED
NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/CN.4/Sub.2/AC.2/1992/4
1 April 1992

ENGLISH
Original: ENGLISH/FRENCH/
SPANISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Working Group on Contemporary
Forms of Slavery
Seventeenth session
4-13 May 1992
Item 3 of the provisional agenda

REVIEW OF INFORMATION RECEIVED ON THE STATUS AND THE IMPLEMENTATION OF CONVENTIONS ON SLAVERY AND SLAVERY-LIKE PRACTICES

Information received from States concerning the Slavery Convention, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others

Note by the Secretary-General

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GE.92-12102/4421B

BELGIUM

[23 August 1991]
[Original: French]

1. The Department of Justice has implemented the recommendations made in resolution 1983/30 and, in particular, its paragraph 4, by writing to the International Criminal Police Organization to urge it to give priority to action to combat the traffic in human beings.

2. Belgium has signed the Convention on the Rights of the Child, which was adopted by the United Nations General Assembly on 20 November 1989 and entered into force on 2 September 1990. It has also signed the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 8 November 1990. The procedure for the ratification of these two international conventions is under way.

3. The Ministry of Justice is currently planning to improve the monitoring of marriage bureaux to prevent them from being used for international traffic for the purpose of prostitution. In addition, the appropriate departments have been instructed to be very careful about issuing visas to individuals from "high-risk" countries, while applications from foreign prostitutes who are in Belgium unlawfully and who try to legalize their situation will be treated sympathetically.

4. With regard to prevention and rehabilitation, the Brussels Committee for the Protection of Youth is currently carrying out a study on the phenomenon of prostitution among young people and another body (the King Baudouin Foundation) has recently funded a programme designed to promote the rehabilitation of prostitutes through work.

COLOMBIA

[15 July 1991]
[Original: Spanish]

1. Slavery was abolished in Colombia in 1850; the Constitution adopted in 1886 specifically prohibited this practice and the slave trade in all its forms. Recently, the National Constituent Assembly, which was democratically elected to implement constitutional reforms, decided, in view of the regrettable emergence of new forms of slavery throughout the world, to amend the text of the relevant article, which was still in force. Article 17 now reads: "Slavery, servitude and all forms of traffic in human beings are prohibited". This article, which is compulsory, also covers the traffic in persons referred to in the 1949 Convention.

2. Despite the prohibition contained in the Constitutions which have been in force in Colombia, the National Government decided to give effect to it through specific legislation relating to each of the new forms of slavery. For example, article 26 of the Constitution, which guarantees freedom to choose one's occupation or trade, provides protection against forms of servitude and violations of dignity and freedom at work. Other provisions include article 1 of Decree No. 2663 of 1950, which states that the purpose of the Labour Code is "to establish equitable relations between employers and employees, in a spirit of economic coordination and social equilibrium"; and article 5 of the Decree, which defines employment as "every form of free human activity, manual or intellectual, permanent or temporary, carried on of his own free will by any person in the service of another, irrespective of the object of such activity, if it is carried on under a contract of employment".

3. Article 57, paragraph 5, of the Labour Code provides that it is the employer's obligation "to respect strictly the personal dignity, beliefs and opinions of every employee", while article 59, paragraph 9, forbids employers to "perform or cause to be performed any action prejudicial to or restricting the rights of employees or affecting their dignity" and article 111 stipulates that "Disciplinary sanctions must not include corporal punishment or any measure which offends the dignity of the employee".

4. Attention is drawn to article 53 of the Constitution, which embodies fundamental principles such as equality and stability in employment, conciliation, guarantees of social security and the right to be paid on time, and states that "the law, contracts of employment and labour agreements may not jeopardize the freedom, human dignity or rights of workers".

5. With regard to the exploitation of child labour, articles 29, 30, 161, 171 and 241 of the Labour Code contain provisions relating to the protection of minors. They specify which work may not be performed by minors because it is prejudicial to their physical or moral integrity.

6. Act No. 20 of 1982 established the Directorate General for Working Minors under the authority of the Ministry of Labour and Social Security and introduced the Statute for Working Minors, which regulates, inter alia, authorizations for, and prohibitions on, the hiring of minors, the prohibition

of dismissals, specific obligations of employers, guarantees of social security, special prohibitions that apply to employers, prohibited types of work, paid annual holidays, working hours and penalties.

7. However, in order to make measures for the protection of children even more specific, title IX of the Minors' Code defines in greater detail the conditions under which work by children is prohibited and contains provisions relating to social security, working hours, wages, supervision and penalties.

8. Particular attention is drawn to the ratification by the Colombian Government of the Convention on the Rights of the Child, which was incorporated into Colombian legislation by Act No. 12 of 1991.

9. Lastly, with regard to the exploitation of the prostitution of others and the traffic in persons, chapter V, articles 308, 309, 310, 311 and 312, of the Code of Penal Procedure, entitled "Procuring", penalizes the offences of inciting to prostitution, forcing persons into prostitution, traffic in women and minors and inciting minors to prostitution.

10. Colombia has not ratified the Slavery Conventions of 1926 and 1956, but, as already stated, it included a specific prohibition on slavery in its Constitutions, even though the practice does not exist in the country.

11. Elections to the new National Congress will be held on 27 October 1991 in accordance with the decision of the National Constituent Assembly, which carried out the reforms to the Constitution. When the sessions of Congress resume in early 1992, attention will be paid to the international conventions whose ratification is deemed appropriate, depending on developments in national life.

CUBA

[13 July 1991]
[Original: Spanish]

1. The Government of Cuba wishes to state that it is prepared to comply with requests for regular reports under the international instruments to which it is a party and which are, in one way or another, incorporated in national legislation.

2. Although the signature and ratification of some of these instruments took place before the triumph of the Revolution, it was after 1959, and the establishment of a more equitable economic and social regime based on full respect for human dignity that these instruments, including the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, stopped being a dead letter and were fully implemented.

MALAYSIA

[13 August 1991]
[Original: English]

1. Although Malaysia is not party to the 1926 and 1949 conventions and although Malaysia has not incorporated the 1956 convention in toto into our municipal law, relevant legislation on the subjects envisaged by the conventions is fairly extensive, and can be found in the following:

(a) The Federal Constitution. Article 6 of the Constitution reads:

"6. (1) No person shall be held in slavery.

(2) All forms of forced labour are prohibited, but Parliament may by law provide for compulsory service for national purposes.

(3) Work incidental to the serving of a sentence of imprisonment imposed by a court of law shall not be taken to be forced labour within the meaning of this Article.

..."

Freedom from slavery and forced labour are fundamental liberties guaranteed by the Federal Constitution. Any legislation enacted which is inconsistent with the Constitution shall, according to Article 4 (1), to the extent of the inconsistency, be void.

(b) The Penal Code. Sections 370 to 374 (chapter XVI) of the Penal Code deal with slavery, forced labour and prostitution in general. The following are criminal offences under the Code:

(i) Importing, exporting, removing, buying, selling or disposing of any person as a slave, or accepting, receiving, or detaining against his will any person as a slave (s. 370);

(ii) Habitually importing, exporting, removing, buying, selling, trafficking, or dealing in slaves (s. 371);

(iii) Selling, letting to hire, or otherwise disposing of any person under the age of 21 with intent that such person shall at any age be employed or used for prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it is likely that such person will at any age be employed or used for any such purpose (s. 372);

(iv) Buying, hiring, or otherwise obtaining possession of any person under 21 years for the above-mentioned intent (s. 373);

(v) Bringing or assisting in bringing, by any false pretence, false representation or fraudulent or deceitful means, into Malaysia any woman with intent that such woman may be employed or used for the purpose of prostitution; or bringing or assisting in bringing

into Malaysia any woman with intent that such woman may be sold or bought for the purpose of prostitution; and selling/buying any woman for the purpose of prostitution (s. 373A);

(vi) Unlawfully compelling any person to labour against the will of that person (s. 374).

The offences are punishable with imprisonment ranging from up to 7 years or 20 years under sections 370 and 371; up to 10 years for sections 372 to 373A, and up to 1 year for section 374. They shall also be punishable with a fine.

(c) Other acts. Other pieces of legislation which have been enacted are designed primarily for the protection of women and children. A brief account of the principal acts are as follows:

(i) The Women and Girls Protection Act 1973. The Act applies to women of all ages, with additional provisions for the protection of women under 21. Under the Act, a social welfare officer may be appointed by the Minister to exercise such powers and perform the duties of a protector. This protector has extensive powers of detention and inquiries, e.g., he may order such female persons under 21 to be removed to a place of refuge and there temporarily detained and brought before a magistrate within 24 hours (s. 7) where he has reasonable cause to believe she is involved with prostitution or the keeping of a brothel. Or, he may receive into a place of refuge any female person who applies to him if he is reasonably satisfied that she is in urgent need of protection (s. 9). Section 16 of the Act provides a list of offences which may be committed under the Act which are formulated in more detail than the provisions under the Penal Code. Section 18 of the Act expressly provides that traffic in female persons is an offence;

(ii) The Children and Young Persons Act 1947. The Act generally applies to children under 14 years of age. A protector is similarly appointed under the Act who is vested with certain duties and powers. Part IV of the Act deals with trafficking in children, particularly the unlawful transfer of possession, custody/control of a child and the importation of children by false pretences (sections 22 and 23), whereas part III mainly protects "transferred children". A female under 14 years old who, except in certain situations, is living apart from her natural father/mother is a "transferred child". The contravention of the provisions of the Act are considered criminal offences.

MALAYSIA

[17 March 1992]
[Original: English]

1. Slavery or trafficking in persons is forbidden under the laws of Malaysia. This is enshrined in:

(a) Article 6 (1) of the Malaysian Constitution ("No persons shall be held in slavery").

(b) The Penal Code:

(i) "Section 367

Whoever kidnaps or abducts any person in order that such person may be subjected or may be so disposed of as to be put in danger of being subjected to grievous hurt or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment for a term which may extend to 10 years, and shall also be liable to a fine.";

(ii) "Section 370

Whoever imports, exports, removes, buys, sells, or disposes of any person as a slave, or accepts, receives, or detains against his will any person as a slave, shall be punished with imprisonment for a term which may extend to 7 years, and shall also be liable to a fine.";

(iii) "Section 371

Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to a fine."

PANAMA

[8 July 1991]
[Original: Spanish]

1. As a democratic nation, the Republic of Panama is founded on the principles of justice, freedom and equality. Panamanian law has never contained any provisions relating to slavery and the slave trade.

2. Articles 19, 87, 125, 133 and 295 of the Constitution reaffirm the principles embodied in the Universal Declaration of Human Rights.

3. In addition, article 311 of the Penal Code classifies as an offence any expression of racial superiority by any person who seeks to dominate any group on the basis of such an ideology.

4. Panamanian law prohibits the traffic in persons and the prostitution of others.

5. The traffic in persons is specifically punished by article 310 of the Panamanian Penal Code as an offence against the international community. The act of leading or forming part of an organization of an international nature having that aim, as well as procuring, pimping and inciting to prostitution, are referred to in articles 228 to 231 of the Penal Code.

6. With regard to Panamanian legislation on migration, article 37 of Decree-Law No. 16 of 30 June 1960 states that:

> "The following are prohibited from immigrating into Panama ...
>
> (a) Women who engage in prostitution or use narcotic drugs and persons who engage in immoral behaviour."

7. Another aspect closely related to the exploitation of women and minors is pornography, which is characterized an offence by the Administrative Code and, in particular, by article 1302, which penalizes the sale, distribution or public display of indecent paintings, pictures or drawings.

SPAIN

[2 July 1991]
[Original: Spanish]

Spain is a party to, but has not ratified, the following Conventions:

The 1926 Slavery Convention (accession on 12 September 1927);

The 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (accession on 21 November 1967);

The 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (accession on 18 June 1962).

TURKEY

[18 March 1992]
[Original: English]

1. Article 41 of the Constitution of the Republic of Turkey regulates an overall protection of children. Due to the fact that this article is included in the section regulating social and economic rights and duties, it is concluded that protection of children is a duty that should be carried out by the State itself. Thus, article 41 of the Constitution foresees that the State should take the necessary measures and establish the necessary mechanisms for procuring the protection of children.

2. In order to fulfil this duty foreseen in the Constitution the Law of Social Services and Institutions for the Protection of Children, No. 2828, dated 24 May 1983 has been put into effect. With this law being in effect, it is aimed that needy children will be looked after by the State. In defining what constitutes a needy child, the law included not only orphans but also children who are neglected by their parents and left unprotected against all kinds of social harms and bad habits such as prostitution, mendicity and alcohol and drug addiction. Hence, it is ensured by law that children will be protected against all kinds of social dangers including prostitution and pornography.

3. To fulfil this duty, the State established orphanages for children between the ages 0-12 and boarding training houses for children from 13-18, in order to provide protection and care for them and enable them to be trained in a handicraft or to get skills which are required for certain jobs. Nurseries and kindergartens operating on the basis of a reasonable fee have been established by the State, specially aimed at working mothers.

4. Turkey has ratified the International Convention of 30 September 1921 for the Suppression of the Traffic in Women and Children and the Protocol amending the Agreements for the Suppression of the Circulation of Obscene Publications.

5. According to article 90 of the Constitution of Turkey, the ratified international conventions have the same effect as national law. Thus, it may be concluded that traffic in children is prohibited in Turkey. Furthermore, Turkey has undertaken to cooperate with other States in overcoming the problem on an international basis, especially in exchanging information and taking necessary precautions in the framework of article 3 of the International Convention of 11 October 1933 for the Suppression of the Traffic in Women of Full Age.

6. In the Turkish Penal Code, under article 435, it is foreseen that whoever entices and instigates a person under 21 to prostitution and facilitates the ways thereof is punished with imprisonment for not less than two years and a heavy fine. Article 435 aims to prevent minors from being instigated to prostitution and being exploited in this sector.

7. As for the elimination of the exploitation of child labour, the Code of Apprenticeship and Professional Training, dated 5 June 1986, has been put into effect so that employment of minors is under the control of the State. Enabling the minors to learn a craft and to have an occupation has been considered as the main purposes of this Code.

8. The Code includes children who are graduates of elementary school up to 19 years of age. Limitations of working hours of minors are also regulated by the Code. In order to realize the training, it is obligatory for employers, within the context of this law, to employ craftsmen skilled as trainers. Moreover, it has been accepted that the employers, within the context of the Code, cannot employ minors under 19 without making an apprenticeship contract; during the apprenticeship period minors' social insurance premiums will be paid by the Ministry, thereby providing minors with a definite rule of social security.

9. The Code also provides for other social rights of minors such as salaries, health insurance and paid vacations.